

Notice of Election for School Bonds.

The law requires that notices of election for authorizing the issuance of school bonds shall be posted fifteen days before the election. A notice posted on the 4th day of November, noticing the election for the 19th of November, is defective, as the posting is only for fourteen days before the election. In computing the fifteen days notice, the day on which the notice is posted is to be excluded, and, in order that the notice be fifteen full days, the day of election must also be excluded.

January 10, 1905.

State Board of Land Commissioners, Helena, Montana.

Gentlemen:—Your letter of the 16th of December, enclosing transcript of proceedings with reference to school bonds of District No. 7, of Valley County, and requesting the opinion of this office on the validity of the issue thereof, was mislaid and has just come to light.

Section 1962, Political Code, requires that elections for school bonds shall be held in the manner prescribed for the election of school trustees. With reference to the notice of election of school trustees, Section 1772, Political Code, states that: "The clerk of the school district must, not less than fifteen days before the election required under this act, post notices in three public places in said district."

The notice of the election at which the bonds of district No. 7 were voted was posted on the 4th day of November and the election was noticed for and held on the 19th day of November.

Section 3459, Code of Civil Procedure, provides that: "The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded." Under this section, in computing the fifteen days notice, the first day, which is the day of posting the notice, is to be excluded, so that the first day of time under the notice would be the 5th day of November. The law requires that the notice shall be posted fifteen days before the election, while the notice under consideration was only posted fourteen days before the election, the day of election not being counted as a part of the fifteen days. The notice, not having been posted for the time required by law, is defective and I, therefore, withhold my approval of the issue of bonds voted at said election.

Respectfully yours,

ALBERT J. GALEN,

Attorney General.

Note—Modified, see opinion to State Board of Land Com., Oct. 10, 1905